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RR RUEHDBU RUEHFL RUEHKW RUEHLA RUEHNP RUEHROV RUEHSL RUEHSR  
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ZNY CCCCC ZZH  
R 111542Z FEB 10  
FM AMEMBASSY BUDAPEST  
TO RUEHC/SECSTATE WASHDC 4900  
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE  
RUCPDO/DEPT OF COMMERCE WASHDC  
RHMFISS/DEPT OF HOMELAND SECURITY WASHINGTON DC  
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C O N F I D E N T I A L SECTION 01 OF 02 BUDAPEST 000089

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SIPDIS

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E.O. 12958: DECL: 02/08/2020  
TAGS: [KTFN](#) [KCRM](#) [KHLs](#) [KPAO](#) [PTER](#) [ECPS](#) [ECON](#) [PREL](#) [HU](#)  
SUBJECT: LAW ENFORCEMENT AND COUNTERTERRORISM  
INFORMATION-SHARING AND DATA PRIVACY ISSUES WITH EUROPE

REF: SECSTATE 8403

Classified By: ECONOMIC OFFICER STEVEN WESTON FOR REASONS 1.4(B) AND (D)  
)

¶1. (C) Summary. There is a good record of information sharing cooperation between U.S. and GOH law enforcement agencies on law enforcement and counterterrorism issues. Hungary's post-communist era constitution, with its broad guarantees of individual rights and liberties, requires high levels of personal data protection. President Solyom, the data privacy ombudsman, and Hungary's Constitutional Court have all strongly advocated more stringent standards for data privacy and protection. If, as widely expected, the opposition Fidesz party wins April's elections, the next government - with its emphasis on law-and-order issues - will likely be more supportive of law enforcement-related information sharing arrangements. End summary.

¶2. (U) Embassy delivered reftel points to MFA's EU and Public Law Department Head Istvan Horvath, and to Petra Jeney and Peter Stauber, the head and deputy head of the Department of Cooperation in the Ministry of Justice and Law Enforcement's Directorate of Justice and Home Affairs.

GOOD RECORD OF INFORMATION SHARING COOPERATION

¶3. (SBU) There is a good record of information sharing on law enforcement and counterterrorism issues between the U.S. and Hungary. Hungary and the United States have a Mutual Legal Assistance Treaty (MLAT) and a nonbinding information sharing arrangement designed to enable U.S. and Hungarian law enforcement to work more closely to fight organized crime and illicit transnational activities. Two bilateral agreements concluded in 2008 as part of the visa waiver negotiations - one on the Exchange of Screening Information Concerning Known or Suspected Terrorists and a second on Enhancing Cooperation in Preventing and Combating Crime - specifically provide for sharing of personal and biometric data of criminal and terrorist suspects and perpetrators. In addition to the formal mechanisms for information-sharing contained in the MLAT, the Embassy's Assistant Legal Attache and the U.S.-Hungarian Joint Organized Crime Task Force regularly cooperate on a more informal basis.

THE ISSUE OF DATA PROTECTION IN HUNGARY

¶4. (C) Despite close information sharing cooperation bilaterally, within the EU and publicly Hungary often supports positions favoring data protection and privacy

issues over law enforcement-related information sharing. Individual rights and personal freedoms are important to Hungarians, and these beliefs are deeply enshrined in Hungary's post-communist era Constitution. The Constitutional Court has interpreted this to require high levels of personal data protection. In addition, personal data protection is a key issue for Hungary's President Laszlo Solyom, the former head of Hungary's Constitutional Court and one of the primary architects of Hungary's Constitution. For example, Solyom initially refused to sign the visa waiver agreement with the United States based on data protection concerns, and has stated that he will not visit the United States as long as he is required to provide his fingerprints.

15. (C) In addition, under Hungarian law, Hungary's data protection ombudsman is given broad authority. Support from the ombudsman is seen as key to obtaining parliamentary approval for legislation, and the government often rewrites legislation to address ombudsman concerns. The current ombudsman is Andras Jori, a protege of President Solyom who was appointed in 2008 for a six-year term. The Constitutional Court also applies a stringent test in reviewing cases challenged for failing to ensure adequate data protection. For example, both the use of closed circuit security cameras at public football matches and the inclusion of personal data on medical prescriptions have been challenged as violations of personal data protection rights in Hungary.

16. (C) Finally, the government ministry structure tends to favor data protection over law enforcement considerations. Currently, responsibility for both law enforcement and data

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protection falls within the same Ministry - the Ministry of Justice and Law Enforcement. As a result, debates between law enforcement and privacy considerations are generally resolved at a sub-cabinet level, and do not benefit from cabinet or Prime Minister level consideration.

17. (C) For these reasons, Hungary often supports positions within the EU favoring data protection and privacy rights over information sharing. That said, in a meeting on February 5, Dr. Petra Jeney, Head of the Department of Cooperation in the Ministry of Justice and Law Enforcement, noted that Hungary supports initiatives which offer greater certainty and clarity in information sharing like the efforts of the High Level Contact Group to develop a binding international U.S.-EU agreement on common personal data protection principles.

18. (C) Regarding a European Passenger Name Record (PNR) system, Jeney expected that the Commission would soon table a proposal. She noted that Hungary would need to see the text before taking a formal position, and noted that key questions for Hungary include whether the PNR system would be centralized or decentralized, as well as who would bear the cost of the system. She noted that given Hungary's general position favoring greater data protection, Hungary is not likely to be an open supporter, but that Hungary would not be obstructionist either.

#### HUNGARY'S EU PRESIDENCY AND NATIONAL ELECTIONS

19. (C) Hungary's position on data protection issues could become more moderate as its January 2011 EU Presidency approaches. According to Jeney, with its upcoming presidency, Hungary views its "pro-European" role as facilitator overriding national tendencies favoring data protection over information sharing. The presidency country's role "is to support initiatives," said Jeney, adding that Hungary is unlikely to hinder the development of information sharing arrangements like the European PNR system or others described reftel.

110. (C) National elections in April may bring a slight

policy shift on this issue domestically as well. With the expected election of the opposition Fidesz party in April, the new government is expected to put greater emphasis on law and order issues. In addition, Fidesz has already announced that, if elected, it will separate ministries responsible for law enforcement and data protection issues, which will allow conflicts that arise to be addressed at the cabinet or prime minister level. Although President Solyom's term will end in 2010, the privacy ombudsman is expected to remain in office until 2014.

#### INFLUENTIAL DECISION-MAKERS AND EMBASSY POCS

11. (C) With Fidesz's expected win in April, Fidesz officials will likely become influential policymakers on these issues in the future. In addition, Fidesz party president Viktor Orban is also Vice President of the European People's Party, currently the largest group in the European Parliament with 265 members. Given his focus on domestic issues, however, Orban is unlikely to openly support any issue that might play negatively at home. Hungarian data protection ombudsman Andras Jori is another influential actor on these issues. Finally, senior officials at the Ministry of Justice and Law Enforcement are key decision makers in the current government.

12 (C) Embassy points of contact on this issue are Econ Chief Steven Weston and Econ Officer Jeffrey Jordan.  
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